

APPEAL NO. 023103  
FILED JANUARY 15, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on November 19, 2002. The hearing officer determined that the appellant (claimant) had not proven that he sustained a physical or mental trauma injury arising out of his arrest at his place of employment. The claimant appeals, arguing that the decision is against the great weight and preponderance of the evidence, which is refuted by the respondent (carrier) in its response to the appeal.

DECISION

We affirm the hearing officer's decision.

The claimant was arrested on \_\_\_\_\_, at his place of employment due to a police investigation arising out of purported theft from the employer. However, the charges were dropped. The claimant asserted that he was shoved into a police car causing back injuries and then later sought psychiatric care due to trauma resulting from the humiliation of his arrest. The claimant was in jail for four days. He was discharged for abandoning his job on November 10, 2001. The claimant and his supervisor agreed that they finally made contact with each other in January, although their accounts of that conversation differ: the claimant asserted that the supervisor was to get back with him about his return to work, while the supervisor said that she told him to bring in proof of the dropped charges in order to return to work, and the claimant never did.

The claimant did not seek medical treatment until February 2002 and subsequently sought psychiatric treatment a month later. He said that he had never experienced depression of any sort before.

The hearing officer stated that he need not analyze whether any injury arising from this series of occurrences would be in the course and scope because he was not persuaded from the record that there was damage or harm (an "injury") of either a physical or psychiatric nature traceable to the arrest. Indeed, the record is extremely sparse. There are no medical statements attributing any form of depression to the occurrence itself. The records of purported physical injury note that diagnostic testing would be required to rule out herniated discs. While the treating chiropractor asserts spinal injury due to the incident in question, some of his initial notes also indicate that the claimant reported an altercation with cellmates while in jail. The hearing officer, as trier of fact, was not required to accept a claimant's testimony at face value, even if not specifically contradicted by other evidence Bullard v. Universal Underwriters Insurance Company, 609 S.W.2d 621 (Tex. Civ. App.-Amarillo 1980, no writ), nor was he bound by medical opinion. There are conflicts in the record, but those were the responsibility of the hearing officer to judge, considering the demeanor of the witnesses and the

record as a whole. We cannot agree that the decision was so against the great weight and preponderance of the evidence as to be manifestly unfair or unjust.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBERT PARNELL  
8144 WALNUT HILL LANE, SUITE 1600  
DALLAS, TEXAS 75231-4813.**

---

Susan M. Kelley  
Appeals Judge

CONCUR:

---

Elaine M. Chaney  
Appeals Judge

DISSENTING OPINION:

I respectfully dissent. The employer precipitated the investigation that led to the arrest of the claimant while he was at work performing his duties for the employer. The claimant was marched out of the building under the control of officers in front of his coworkers, handcuffed, placed in a police car, taken to the police station, and fingerprinted and booked. The claimant was kept in jail for four days. Later all charges against the claimant were dismissed. The hearing officer determined that the claimant suffers from major depression. Although there is no report from an expert saying that the arrest and lockup contributed to the claimant's depression, and although there may be other causes of the depression<sup>1</sup>, there is little doubt that being arrested and thrown in jail is a severe traumatic event that even a lay person could say attributed to the depression. I would reverse the hearing officer's determination that the claimant's major depression was not a compensable injury in the course and scope of his employment.

---

Roy L. Warren  
Appeals Judge

---

<sup>1</sup> The mental trauma does not have to be the sole cause of the depression to be compensable, it need only be "a" cause. See Texas Workers' Compensation Commission Appeal No. 010341, decided March 21, 2001.